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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/707,042	11/17/2003	Ed Stengel	15932-US	1041

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CANADA

EXAMINER

KERSHTEYN, IGOR

ART UNIT

PAPER NUMBER

3745

DATE MAILED: 02/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/707,042

Applicant(s)

STENGEL, ED

Examiner

Igor Kershteyn

Art Unit

3745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 8-11 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>02/17/2004</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

Claims 1 and 9 are objected to because of the following informalities:

In claim 1:

In line 1, "comprising:a" should be --comprising: a--,

In line 8, "body;a" should be --body; a--,

In line 10, "wearer"s" should be --wearer's--,

In line 12, "user"s" should be --wearer's--.

In claim 9, line 1, "in claim 7" should be --in claim 8-- because it appears that claim 9 includes the limitation "said accessory device is a radio" which further limits the scope of claim 8 rather than claim 7.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application to Cheng (US 2004/0197199) in view of Ho (6,409,475).

Cheng teaches a personal fan 1 comprising: a stable mounting base (not numbered) having a bottom surface 13 adapted to lie against the chest S of a wearer and a top surface 12, said stable mounting base being in the form of a weighted shallow robust body having a length and breadth substantially greater than its thickness, a tiltable shroudless fan unit (not numbered), a control 63 for said fan located on said body, a cord (not numbered) attachable to said body to permit said body to be suspended around the neck of the wearer such that said bottom surface 13 lies snugly against the wearer's chest S and said shroudless fan unit can be oriented to direct airflow onto the user's face and said control 63 is accessible to the user.

Cheng doesn't teach the tiltable shroudless fan unit mounted on the top surface of the mounting base.

Ho, in figure 1, teaches a fan having a mounting base 22 and a shroudless tiltable fan unit 2 mounted on a top surface of the mounting base 22.

Since Cheng and Ho are analogous art because they are from the same field of endeavor, that is the portable fan art, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to mount the fan unit of Cheng on the top surface of the mounting base as taught by Ho for the purpose of increasing the internal volume of the mounting base.

Claims 2 and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application to Cheng (US 2004/0197199) as modified by Ho (6,409,475), further in view of Shin-Chin (4,799,858).

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Cheng, as modified by Ho, teach all the claimed subject matter except that they don't teach the tiltable fan unit is mounted on a pair of lugs protruding from the top surface by means of trunnions frictionally engaging bearing bores in the lugs.

Shin-Chin in figures 1-6, teaches a portable fan 11 having a base 13, a tiltable fan unit 17 mounted on a pair of lugs 55 protruding from a top surface of the base 13 by means of trunnions 95 frictionally engaging bearing bores 97 in the lugs 55.

Since Cheng, as modified by Ho, and shin-Chin are analogous art because they are from the same field of endeavor, that is the portable fan art, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the fan mounting arrangement of Cheng, as modified by Ho with the lugs and trunnions as taught by Shin-Chin for the purpose of preventing an occasional directing of the fan unit away from the wearer's chest.

Claims 8, and 9, as far as it should depend on claim 8 (See Claim Objections Section of this Office action), are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application to Cheng (US 2004/0197199) as modified by Ho (6,409,475), in view of Yuen (Des.428,172).

Cheng as modified by Ho teach all the claimed subject matter except that they don't teach the body contains an accessory device, the accessory device is a radio, and a control for said radio is located on the body.

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Yuen teaches a multi function radio and fan unit having a body, the body contains an accessory device, the accessory device is a radio, and a control for said radio is located on the body.

Since Cheng as modified by Ho and Yuen are analogous art because they are from the same field of endeavor, that is the portable fan art, it would have been obvious at the time the invention was made to a person having ordinary skill in the art to modify the body of Cheng as modified by Ho with the accessory device as taught by Yuen for the purpose of intertainment for the wearer of the fan.

Allowable Subject Matter

Claims 4-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Note If claim 9 was meant by Applicant to depend on claim 7, it would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, the limitation "said accessory device" should be amended because it does not have proper antecedent basis.

Prior Art

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consist of four patents.

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Malone et al. (3,096,702) is cited to show a portable fan having a base and a fan unit but fails to teach the fan unit being tiltable.

Travis (5,046,329) is cited to show a portable fan having a base and a fan unit but fails to teach the fan unit being mounted of a top surface of the body.

Yuen (D451,184) is cited to show a portable fan having a base and a fan unit but fails to teach the fan unit being mounted of a top surface of the body.

Tolar (D464,420) is cited to show a portable fan having a disc shaped base and a fan unit but fails to teach the fan unit being mounted of a top surface of the body.

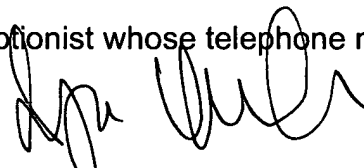
Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kershteyn whose telephone number is **(571)272-4817**. The examiner can be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on **(571)272-4820**. The fax number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0861.

IK
February 11, 2005



Igor Kershteyn
Patent examiner.
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